

### **REMARKS**

Claims 1-11 and 13 are pending. By this Amendment, Claims 1-2 and 13 are amended. Claims 1 and 13 are amended herein to recite subject matter recited previously in Claim 2 and that which is shown in the originally filed drawings, see Figs. 3-4 for example. As such, Applicants respectfully submit that no new subject matter is presented.

### **Entry of Response Proper**

Entry of this Amendment is proper under 37 C.F.R. §1.116 since the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issues requiring further search and/or consideration on the part of the Examiner since Claims 1 and 13 are amended herein to recite that which was previously recited by Claim 2 and considered by the Examiner; (c) satisfy a requirement of form asserted in the previous Office Action; (d) do not present any additional claims without canceling a corresponding number of finally rejected claims; and (e) place the application in better form for appeal, should an appeal be necessary. The Amendment is necessary and was not earlier presented because it is made in response to objections raised in the Final Rejection. Entry of the Amendment is thus respectfully requested.

### **Claims 1-11 and 13 Recite Patentable Subject Matter**

Claims 1 – 4 and 11 are rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,884,009 to Okase. Claims 5-10 are rejected under 35

U.S.C. §103(a) as being unpatentable over Okase. Applicants respectfully traverse both rejections for the following reasons.

Claim 1 claims a film-forming apparatus in which a gas mixture prepared in a gas-mixing chamber is introduced into a film-forming chamber, including, among other features, an exhaust port for discharging an exhaust gas from the film-forming chamber is formed in a side wall of the film-forming chamber at a position located below the level of a stage which supports a substrate while the stage is at an up position and having an opening extending in a direction that is orthogonal relative to a direction in which the stage is raised and lowered.

Applicants respectfully submit that Okase fails to disclose, teach or otherwise suggest such a feature.

Applicants note the Office Action asserts that Okase discloses an exhaust port (45; Fig. 7) for discharging exhaust gas from the film-forming chamber and is disposed on the side wall (71; Fig. 7) of the film-forming chamber.

Applicants note that while the exhaust port (45) is contiguous with an inner circumference of a side wall of an inner chamber (2) (column 10, lines 60-62), the exhaust port (45) is not formed *in* the side wall of the film forming chamber and, even if the port (45) is considered to be formed in the side wall, Applicants note the exhaust port (45) does not have an opening extending in a direction orthogonal relative to a direction in which the stage (61) moves up and down. Rather, the exhaust port (45) has an opening which extends parallel relative to the direction in which the stage moves, i.e., up and down.

To qualify as prior art under 35 U.S.C. §102, a reference must teach, i.e., identically describe, each and every feature of a rejected claim. For the reasons discussed above, Okase does not disclose or suggest each and every feature recited by Claim 1.

Furthermore, to establish *prima facie* obviousness, each and every feature recited by a rejected claim must be taught or suggested by the applied art of record. For the reasons discussed above, Applicants respectfully submit that Okase does not disclose, teach or otherwise suggest that which is recited by Claim 1.

As such, Applicants respectfully submit that Claim 1 should be deemed allowable over Okase.

Claims 2-11 depend from Claim 1. It is respectfully submitted that these dependent claims be deemed allowable over Okase for at least the same reasons Claim 1 is allowable as well as for the additional subject matter recited therein.

Withdrawal of both rejections is respectfully requested.

Claim 13 is rejected under 35 U.S.C. §103(a) as being unpatentable of Okase in view of United States Patent No. 6,817,377 to Reimer et al. (Reimer). Applicants respectfully traverse the rejection.

Claim 13 recites a feature recited by Claim 1 and discussed above.

Okase is discussed above.

Applicants respectfully submit that Reimer does not cure or otherwise address the above-described deficiency of Okase since Reimer teaches exhaust ports being

formed in the lower wall or lower surface of the chamber and not in the side walls of the chamber.

To establish *prima facie* obviousness, each and every feature recited by a rejected claim must be taught or suggested by the applied art of record. For the reasons discussed above, Applicants respectfully submit that Okase and Reimer, alone or in any combination thereof, do not teach or otherwise suggest that which is recited by Claim 13.

As such, Applicants respectfully submit that Claim 13 should be deemed allowable over Okase and Reimer.

Withdrawal of the rejection is respectfully requested.

### **Conclusion**

In view of the foregoing, reconsideration of the application, withdrawal of the outstanding rejections, allowance of the Claims 1-11 and 13, and the prompt issuance of a Notice of Allowability are respectfully solicited.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing docket number 026390.00009.**

Respectfully submitted,  
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Enclosure: Petition for Extension of Time